

RALPH LYNN FERGUSON, JR.

Plaintiff,

v.

ERIC MARCINE DUNN, et al.,

Defendants.

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NO. 1:16-CV-272

**ORDER OVERRULING OBJECTIONS AND ADOPTING
REPORT AND RECOMMENDATION OF UNITED STATES MAGISTRATE JUDGE**

The court referred this case to the Honorable Zack Hawthorn, United States Magistrate Judge, for pretrial management. The court has received and considered Judge Hawthorn's report and recommendation (Doc. No. 169), which recommends granting the following motions:

- Defendant Timothy Wayne Corkern's "12(b)(6) Motion to Dismiss" (Doc. No. 125);
- Defendant J. Keith Stanley's "Third Motion to Dismiss" (Doc. No. 129);
- Defendants Charles Willis, Josh Beckman, Brandon Thurman, Gwen Kelley, Judge Connie Smith, Linda Pitts, Ashley Morrow, Robert Shane Hilton, Courtney Tracy Ponthier, and Judge Craig Mixson's "Motion to Dismiss" (Doc. No. 131); and
- Defendants Pete Patrick, Angie Brown, and Parvin Butler's (Patrick Auto Defendants) "Sixth Motion to Dismiss." Doc. No. 132.

The report also recommends granting in part and denying in part the following motion:

- Defendants Eric Dunn and Steve Holloway's "Fourth Motion to Dismiss." Doc. No. 130.

The court has also received the written objections of *pro se* Plaintiff Ralph Lynn Ferguson. Doc. No. 172. A party who files timely, written objections to a magistrate judge's report and recommendation is entitled to a *de novo* determination of those findings or recommendations to which the party specifically objects. 28 U.S.C. § 636(b)(1)(C); FED. R. CIV. P. 72(b)(2)-(3). "Frivolous, conclusive or general objections need not be considered by the district court." *Nettles v. Wainwright*, 677 F.2d 404, 410 n.8 (5th Cir. 1982) (en banc),

overruled on other grounds by Douglass v. United Servs. Auto. Ass'n, 79 F.3d 1415 (5th Cir. 1996) (en banc).

Ferguson's objections fall into four primary categories: (1) disputing the meaning and applicability of the Texas Transportation Code to non-commercial motorists; (2) objecting to Judge Hawthorn's citations to case law that supposedly conflict with the wording of state statutes and the Constitution; (3) one-sentence, *pro forma*, general, and conclusory objections to Judge Hawthorn's recommendations; and (4) objecting that qualified immunity and official immunity are in conflict with the Fourteenth Amendment's Equal Protection Clause. *See generally* Doc. No. 172. A *de novo* review of Judge Hawthorn's report concludes that Ferguson's objections are wholly without merit. As a result, the court adopts the report and recommendation.

It is, therefore, **ORDERED** that the report and recommendation of the magistrate judge (Doc. No. 169) is **ADOPTED**.

It is further **ORDERED**:

Corkern's "12(b)(6) Motion to Dismiss" (Doc. No. 125) is **GRANTED**, and all of Ferguson's claims against Corkern are **DISMISSED with prejudice**.

Stanley's "Third Motion to Dismiss" (Doc. No. 129) is **GRANTED**, and all of Ferguson's claims against Stanley are **DISMISSED with prejudice**.

Willis, Beckman, Thurman, Kelley, Judge Smith, Pitts, Morrow, Hilton, Ponthier, and Judge Mixson's "Motion to Dismiss" (Doc. No. 131) is **GRANTED**, and all of the claims against these Defendants are **DISMISSED with prejudice**.

Patrick, Brown, and Butler's "Sixth Motion to Dismiss" (Doc. No. 132) is **GRANTED**, and all of Ferguson's claims against these Defendants are **DISMISSED with prejudice**.

Dunn and Holloway's "Fourth Motion to Dismiss" (Doc. No. 130) is **GRANTED in part** and **DENIED in part**. All of Ferguson's claims against Holloway are **DISMISSED with prejudice**. Ferguson's Fourth Amendment unlawful arrest, Fourteenth Amendment due process, and Eighth Amendment excessive bail claims against Dunn are **DISMISSED with prejudice**. Ferguson's Fourth Amendment unlawful seizure and Fourth Amendment unlawful search claims against Dunn may proceed.

It is further **ORDERED** that Ferguson's "Motion for Leave of Court to Exceed the Page Limitation" (Doc. No. 171) is **GRANTED**.

SIGNED at Beaumont, Texas, this 1st day of June, 2018.

A handwritten signature in black ink, reading "Marcia A. Crone", is positioned above a horizontal line.

MARCIA A. CRONE
UNITED STATES DISTRICT JUDGE